

REMARKS

This Amendment is submitted in answer to the Office Action dated August 11, 2008, having a shortened three month period set to expire November 11, 2008.

I. INFORMATION DISCLOSURE STATEMENT

In paragraph 3 of the present Office Action, the Examiner notes that the Information Disclosure Statement (IDS) filed May 23, 2008, inadvertently failed to include a concise explanation of the relevance of FR2633525A1, which is not in the English language. Accordingly, Applicant has submitted herewith a Supplemental IDS containing a concise explanation of the relevance of FR2633525A1. Applicant respectfully requests the Examiner to now consider this reference.

II. REJECTION UNDER 35 U.S.C. § 102

In paragraph 5 of the present Office Action, Claims 13, 16-17, 20, 27, 30-31, 34, 36-38 and 40-43 are rejected under 35 U.S.C. § 102(b) as unpatentable over U.S. Patent No. 6,073,581 to *Wang*. That rejection is respectfully traversed, and favorable reconsideration of the claims is requested.

A. Exemplary Claim 1

Applicant respectfully submits that the rejection of exemplary Claim 13 under 35 U.S.C. § 102 in view of *Wang* is overcome because *Wang* does not disclose the “removable cap” recited in exemplary Claim 1 as follows:

a removable cap removably retained within the aperture and at least partially blocking the aperture, said removable cap having a substantially dome-shaped outward-facing surface generally conforming to said truncated portion of said generally spheroidal outside surface such that rolling of said animal treat ball apparatus across the aperture is enhanced while said removable cap is retained within said aperture and diminished after removal thereof.

With reference to the claimed “removable cap,” paragraph 6 of the present Office Action cites passage way 26 of *Wang*. As should be apparent, a void, such as *Wang*’s passage way 26, is not

a removable cap and does not have a surface, much less the “substantially dome-shaped outward-facing surface” recited in Claim 13.

Moreover, should the Examiner have intended to refer to expanded head 21 of *Wang*’s cylindrical valve 2, Applicant respectfully points out that *Wang*’s expanded head 21, which is an annular ring surrounding an output port 27, does not have a “substantially dome-shaped outward-facing surface.” Further, the outward-facing surface of expanded head 21 does not “generally conform[] to said truncated portion of said generally spheroidal outside surface” as recited in exemplary Claim 13. Consequently, the rejection of exemplary Claim 13, similar Claim 31, and their respective dependent claims under 35 U.S.C. § 102 in view of *Wang* is overcome.

B. Exemplary Claim 17

The rejection of exemplary Claim 17 under 35 U.S.C. § 102 in view of *Wang* is also overcome because *Wang* does not identically disclose “the wall of the interior compartment includes a funnel section adjacent the opening for funneling items to the opening, wherein the funnel section has a greater thickness further from the opening and a lesser thickness closer to the opening,” as recited in exemplary Claim 17. With reference to Claim 17, the Examiner cites an opening in *Wang*’s internal ribs as disclosing the claimed funnel section of the wall. As should be apparent, an opening like that disclosed by *Wang* is not a section of a wall “adjacent the opening” and accordingly does not have “a greater thickness further from the opening and a lesser thickness closer to the opening,” as claimed. Consequently, the rejection of exemplary Claim 17 and similar Claim 37 under 35 U.S.C. § 102 in view of *Wang* is overcome.

C. Exemplary Claim 30

The rejection of exemplary Claim 30 under 35 U.S.C. § 102 in view of *Wang* is also overcome because *Wang* does not identically disclose the following features recited in exemplary Claim 30:

the animal treat ball has a lip at a perimeter of the aperture;
the substantially dome-shaped outward-facing surface of the removable cap
has a central peak portion and a peripheral base portion; and
when the removable cap is retained within the space, the lip overlays at least

some of the peripheral base portion but not the peak portion of the substantially dome-shaped outward-facing surface of the removable cap.

With reference to the foregoing features, paragraph 9 of the present Office Action cites *Wang's* stop flanges 34, 44 in the opening of *Wang's* spherical shell 1. In response, Applicant notes that stop flanges 34, 44 do not "overlay[] at least some of the peripheral base portion but not the peak portion of the substantially dome-shaped outward-facing surface of the removable cap," as claimed. Consequently, the rejection of exemplary Claim 30 and similar Claim 34 under 35 U.S.C. § 102 in view of *Wang* is overcome.

III. REJECTIONS UNDER 35 U.S.C. § 103

A. Claims 15 and 35

In paragraph 11 of the present Office Action, Claims 15 and 35 are rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,073,581 to *Wang* in view of IE 82913 to *McEvoy*. That rejection is overcome for at least the reasons set forth above with reference to Claims 13 and 31.

B. Claims 13, 19, 33 and 33

In paragraphs 13-14 of the present Office Action, Claims 13, 19, 31 and 33 are rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent Publication 2004/0244719 to *Jager* in view of U.S. Patent No. 6,634,318 to *Rucker*. That rejection is respectfully traversed.

As an initial matter, Applicant notes that *Jager*, which has a filing date of June 1, 2004, is the publication of a CIP application claiming priority to U.S. Patent Application Serial No. 10/213,870, filed August 6, 2002, which in turn claims priority to an earlier filed German application. Because the present application has a filing date of November 12, 2003, *Jager* is not prior art as of its filing date. Further, it is unclear whether the material in *Jager* relied upon by the Examiner is found wholly in *Jager's* parent application and is thus entitled to a priority date predating the filing date of the present application. Consequently, if the Examiner should choose to sustain any rejection based

upon a teaching found in *Jager*, Applicant respectfully requests the Examiner to cite to a prior art document clearly predating the filing date of the present application.

Applicant respectfully submits that the §103 rejection in view of the combination of *Jager* and *Rucker* is overcome because that combination fails to disclose each claimed feature of exemplary Claim 13. For example, the combination of references does not disclose and is not alleged by the Examiner to disclose “said removable cap having a substantially dome-shaped outward-facing surface generally conforming to said truncated portion of said generally spheroidal outside surface such that rolling of said animal treat ball apparatus across the aperture is enhanced while said removable cap is retained within said aperture and diminished after removal thereof.” Consequently, the Examiner has failed to set forth a *prima facie* case of obviousness, and the rejection of Claim 13, similar Claim 30 and dependent Claims 19 and 33 under 35 U.S.C. § 103 is overcome.

IV. CONCLUSION

Having now addressed and overcome each outstanding rejection of the claims, Applicant respectfully submits that all claims now pending are in condition for allowance and respectfully requests such allowance.

No extension of time for this response is believed to be necessary. However, in the event an extension of time is required, that extension of time is hereby requested. Please charge any fee associated with an extension of time as well as any other fee necessary to further the prosecution of this application to **Dillon & Yudell LLP Deposit Account No. 50-3083**.

Respectfully submitted,



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